



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 25, 2008

CBCA 1010-RELO

In the Matter of CHRISTOPHER SICKLER

Christopher Sickler, Lenexa, KS, Claimant.

Shirley Lee Autry, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

A transferred employee who is not authorized temporary quarters subsistence expenses (TQSE) may not be reimbursed for such expenses.

Background

The Army Corps of Engineers transferred Christopher Sickler from Germany to Kansas City, Missouri, in November 2007. Mr. Sickler had purchased a house in the Kansas City area in anticipation of this move. He and his family arrived in the area on November 11 and immediately moved into the house, which they intended to be their permanent residence. Their unaccompanied baggage, which contained their kitchen supplies, was supposed to arrive on November 20, but it was not delivered until December 3. Mr. Sickler says that between November 11 and December 3, he and his family ate their meals in restaurants and spent \$1846 in so doing.

The Corps issued orders to Mr. Sickler for the change of permanent duty station from Germany to Kansas City. The initial orders, issued on September 7, 2007, state that TQSE is not authorized. Amended orders, issued on December 17, 2007, reiterate this statement.

Mr. Sickler asked the Corps to reimburse him for the expenses he and his family actually incurred in eating meals in restaurants between November 11 and December 3. The Corps denied his request, noting that his orders did not authorize reimbursement of TQSE and maintaining that even if the orders had done so, he would not qualify for this benefit because he never lived in temporary quarters in the Kansas City area. Mr. Sickler now claims reimbursement under the fixed amount TQSE method for the twenty-three days involved, a sum he calculates as \$1298. He contends that if the family had stayed in a hotel while waiting for their kitchen supplies to arrive, it would have incurred considerably more TQSE.

Discussion

When an agency transfers an employee from one permanent duty station to another in the interest of the Government, the agency is required to provide some benefits to the employee and may provide others. TQSE falls into the second category; whether to provide reimbursement for these expenses is a determination which is wholly within the discretion of the agency. *Melinda Slaughter*, CBCA 754-RELO, 07-2 BCA ¶ 33,633; *Marvin R. McGee*, GSBCA 15829-RELO, 02-2 BCA ¶ 32,002; *Riyoji Funai*, GSBCA 15452-RELO, 01-1 BCA ¶ 31,342. Both statute and regulation make this clear: The statute regarding TQSE says that “an agency *may* pay” these benefits. 5 U.S.C. § 5724a(c)(1) (2000) (emphasis added). The Federal Travel Regulation asks, “Must my agency authorize payment of a TQSE allowance?” and answers, “No, your agency determines whether it is in the Government’s interest to pay TQSE.” 41 CFR 302-6.6 (2007). The Department of Defense’s Joint Travel Regulations similarly explain, “TQSE is a ***discretionary, not mandatory***, allowance.” JTR C5350.

When the Corps decided to transfer Mr. Sickler, it determined not to grant him reimbursement of TQSE he might incur. Mr. Sickler has not demonstrated that this determination was arbitrary, capricious, or an abuse of discretion. Consequently, the agency properly denied the request he made after the move for reimbursement of TQSE he did incur. *Daniel D. LaChance*, GSBCA 16911-RELO, 06-2 BCA ¶ 33,396; *Thomas G. Tucker, Jr.*, GSBCA 16682-RELO, 06-1 BCA ¶ 33,168 (2005).

STEPHEN M. DANIELS
Board Judge